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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,126	11/20/2000	Paul Thomas	60,130-884	4027

26096 7590 11/15/2002

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EXAMINER

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ART UNIT

PAPER NUMBER

3683

DATE MAILED: 11/15/2002

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 19

Application Number: 09/647,126

Filing Date: November 20, 2000

Appellant(s): THOMAS ET AL.

Karin Butchko
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 30, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because the claims are not separately patentable from the independent claim. Arguments that the claims of groups B,C, and D are contested separately because they are different in scope (have further limitations) is not a basis for separation of the claims into distinct groups.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,568,845	Baumgartner et al.	10-1996
6,269,914	Angerfors	8-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 19-33 are rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 11.

(11) Response to Argument

Appellant argues that the combination of Baumgartner et al in view of Angerfors would ruin the features of Baumgartner et al. The applicant claims that the frictional torque provided by the seal of Baumgartner et al would be lost if the seal was in contact with an unthreaded portion rather than a threaded portion. The examiner respectively disagrees. As pointed out by the Appellant, the seal of Baumgartner et al works by having a slightly smaller inner diameter than the outer diameter of the shaft. This is commonly referred to as an interference fit, which is a necessary feature for all seals. To properly seal against an unthreaded shaft, the seal of Baumgartner et al would have to have an interference fit in order to prevent fluid or debris from passing. This interference fit is also what provides the frictional torque discussed. Therefore, if the seal of Baumgartner et al is used properly in any environment, then it will provide the features discussed in the reference. If the seal is not used properly, then it will not be able to perform its most basic function, to prevent the passage of unwanted material.

Appellant further argues that having a shaft with a unthreaded portion ("length of threads must be removed") would destroy the adjustment function of Baumgartner et al. As indicated previously by the examiner, The adjustment function with regard to the total amount of wear compensation that may be performed is determined by the threads at the end of the shaft. Threads at the front of the shaft are only engaged when there is very little, if any, wear.

With regard to Claims 20, 21, 27, and 28, Appellant argues that Baumgartner et al does not disclose a seal which engages the smooth outer surface of the support element. The examiner concedes this fact but contends that the claims are written functionally and the second seal is not required. Baumgartner et al discloses the smooth surface which may be engaged by another seal. The claims merely require "to provide a smooth sealing surface for engagement by ... a further seal".

With regard to Claims 22 and 29, Appellant argues that Baumgartner et al does not disclose the support member as carried by the sleeve. The examiner respectfully

disagrees. There is no requirement in the claim that the support member must be directly contacted by the sleeve in order to be carried by said sleeve.

With regard to Claims 23 and 30, Appellant argues that Baumgartner et al does not disclose the base of the support member as resting against the end of the sleeve. The examiner respectfully disagrees. There is no requirement in the claim that the base of the support member must be directly contacted by the sleeve in order to be resting against said sleeve.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Robert A Siconolfi
Examiner
Art Unit 3683

RS
November 12, 2002

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